



**4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2019-0240]**

**Hours of Service of Drivers: DPN, dba Matrix Medical Network; Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from DPN, doing business as Matrix Medical Network (Matrix), requesting exemptions from the hours-of-service (HOS) provisions. Matrix requests the exemptions to allow its employee-drivers known as “Mobile Team Leads” to work up to 16 hours per day and be allowed to return to work with less than the mandatory 10 consecutive hours off duty. FMCSA requests public comment on Matrix’s application.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2019-0240 by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number of this notice. DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including personal information in a comment. Please see the Privacy Act heading below.

Docket: To read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS) at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, please contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366-4325; E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2019-0240), the specific section of this document to which the comment applies, and provide reasons for suggestions or recommendations. You may submit online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in your document so the Agency can contact you if it has questions about your submission.

To submit your comments online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number, “FMCSA-2019-0240” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Submit a Formal Comment” button and type your comment into the text box in the following screen. Indicate whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or deny this application based on your comments.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish

a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Request for Exemption**

49 CFR 395.3(a)(1) prohibits a driver from operating a commercial motor vehicle (CMV) without first taking 10 consecutive hours off duty. 49 CFR 395.3(a)(2) prohibits a driver from operating a CMV after the the end of a 14 hour consecutive hour period without first taking 10 consecutive hours off duty.

Matrix requests a limited exemption for its drivers of mobile clinics known as "Mobile Team Leads" from the HOS 10 hour off-duty rule and the 14-hour period. Matrix requests that these employee-drivers be permitted to rest for 8 hours instead of 10 hours, and operate for 16 working hours instead of being limited to 14 hours.

Matrix reports that it operates a fleet of mobile medical clinics used to assist

Medicare Advantage organizations. These services include, but are not limited to, providing patients with comprehensive health assessments and evaluations, and ongoing management of complex chronic conditions.

Matrix explained that it generally hosts patients during “events,” which are usually held two to three times per week. Patients are seen on a mobile clinic throughout an event day usually between 7 a.m. to 6 p.m. local time, however the events do not always end at scheduled times. Each mobile clinic operates with a minimal crew consisting of (1) a mobile team lead, (2) registered nurse or nurse practitioner, (3) mammography technician, and (4) a medical technician or cardiovascular technician. The Mobile Team Lead is an integral part of the mobile clinic’s healthcare service delivery team. The Mobile Team Lead is responsible for duties akin to an office manager’s responsibilities. In addition to these duties, the Mobile Team Lead is responsible for driving the mobile clinic to and from an event location and hotel location. The proposed exemption would cover approximately 50 mobile team leads for the 40 mobile clinics in the applicant's fleet. Additionally, the exemption, if granted, would be used on event days only.

Matrix asserts that the proposed exemption is critical to ensure that it meets the needs of its patients and support its mission. Matrix explains that patients cancelling or arriving late to scheduled appointments or appointments that require additional time with providers, can cause an event to go beyond its scheduled end time of 6:00 PM local time. Matrix argues that 395.3(a)(1) and 395.3(a)(2) would require Matrix to cancel patient appointments, causing a hardship on their operation. According to the applicant, the need to maximize

patient engagement is the underlying reason for this exemption request. It would allow an event to continue past its scheduled end time and allow the Mobile Team Lead to drive the mobile clinic to a new hotel location that is close enough to the next event location so that the following event day can commence at 7:00 a.m. local time.

#### **IV. Method to Ensure an Equivalent or Greater Level of Safety**

To ensure an equivalent level of safety, Matrix offers short driving distances, short durations of driving, and driving at off-peak commuting times. Matrix believes that an equivalent level of safety will be sustained as Mobile Team leads are trained on fatigue awareness and hours of service compliance expectations, and, training programs from both the North American Fatigue Management Program and the Commercial Vehicle Training Alliance. Matrix states that Mobile Team Leads drive less than one-sixth of their work day. The rest of their day is spent performing non-clinical, management, and administrative services.

A copy of Matrix's application is available for review in the docket for this notice.

Issued on: October 24, 2019.

Larry W. Minor,  
Associate Administrator for Policy.